

# Fifth Circuit Court of Appeal State of Louisiana

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No. 25-KH-601

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MAURIO ALEXIS

*versus*

TIMOTHY HOOPER, WARDEN

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IN RE STATE OF LOUISIANA

APPLYING FOR SUPERVISORY WRIT FROM THE FORTIETH JUDICIAL DISTRICT COURT,  
PARISH OF ST JOHN THE BAPTIST, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE  
NGHANA LEWIS, DIVISION "B", No. 94,404

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**TRUE COPY**

February 04, 2026



LINDA TRAN  
DEPUTY CLERK

Panel composed of Judges Susan M. Chehardy,  
John J. Molaison, Jr., and Timothy S. Marcel

## **WRIT DENIED**

In this writ application, the State seeks review of the trial court's September 15, 2025 ruling that denied its procedural objections to the Application for Post-Conviction Relief (APCR) filed on September 3, 2023, by the defendant, Maurio Alexis. For the following reasons, we deny relief.

## **FACTS AND PROCEDURAL HISTORY**

In September 1995, the State tried the defendant and Ernest Washington for the second degree murder of Mullin Dinvaut. The district court declared a mistrial because the jury could not reach a verdict. Approximately one year later, on September 18, 1996, a second

trial of the defendant commenced for the second degree murder of Mullin Dinvaut. At the second trial, the jury found the defendant guilty as charged. The district court imposed the mandatory sentence of life imprisonment. This Court affirmed his conviction and sentence. *State v. Alexis*, 98-1145 (La. App. 5 Cir. 6/1/99), 738 So.2d 57. The Louisiana Supreme Court denied writs. *State v. Alexis*, 99-1937 (La. 10/13/00), 770 So.2d 339.

The defendant filed a *pro se* APCR on September 25, 2001, alleging ineffective assistance of counsel, prosecutorial misconduct, judicial partiality, racial discrimination in the selection of grand jury forepersons, and cumulative error. On November 6, 2002, the district court granted an evidentiary hearing on claims of ineffective assistance of counsel and racial discrimination in the selection of grand jury forepersons but denied the remaining post-conviction claims. The district court appointed Guy Lillian of the St. John Parish Public Defender's Office to represent the defendant at the evidentiary hearing on his post-conviction claims regarding counsel's ineffectiveness and racial discrimination in selecting grand jury forepersons. At the July 2, 2003 evidentiary hearing, Mr. Lillian called Margaret Hammond-Jackson, who represented the defendant at his 1996 trial. The district court denied the ineffective assistance of counsel claim and after taking the issue of racial discrimination in selecting grand jury forepersons under advisement, rejected this claim as well. The defendant did not seek review of these rulings.

On September 3, 2023, the defendant, now represented by Innocence Project New Orleans, filed an APCR based on newly

discovered evidence that the State withheld. The defense could have used this evidence to impeach the State's witnesses' testimony and to challenge the credibility of the police investigation, in violation of *Brady v. Maryland*, 373 U.S. 83, 87, 83 S.Ct. 1194, 1196, 10 L.Ed.2d 215 (1963). He argued that this newly discovered evidence supported his claims of ineffective assistance of counsel and cumulative due process violations. He also raised a claim of factual innocence under La. C.Cr.P. art. 926.2 and filed supplements to his APCR with recently obtained *Brady* material from discovery ordered by the district court.

On May 27, 2025, the State filed its procedural objections to the APCR, arguing that the *Brady* claim was untimely because the defendant failed to meet the diligence requirement for newly discovered facts under La. C.Cr.P. art. 930.8(A)(1). As part of this objection, the State claimed prejudice because the defendant's trial counsel, Ms. Hammond-Jackson, was now deceased, depriving the State of its ability to rebut the claims regarding counsel's knowledge of the alleged *Brady* material and her trial strategy. Next, the State maintained that the ineffective assistance of counsel claim was successive, citing La. C.Cr.P. art. 930.4, as the defendant previously raised this claim on appeal and in his 2001 APCR. Finally, the State argued that the factual innocence claim failed to meet both the timeliness and evidentiary requirements outlined in La. C.Cr.P. art. 926.2.

The defendant filed a reply, reiterating his reliance on the newly discovered facts exception in La. C.Cr.P. art. 930.8(A)(1). He challenged the State's successiveness objection, arguing that his claim of ineffective assistance of counsel rested on newly discovered evidence that the

defendant did not raise in his appeal or 2001 APCR. He also disputed the State's procedural objections to his factual innocence claim.

After the hearing on August 6, 2025, the district court requested briefing on: (1) the State's claim of prejudice based on the death of the defendant's trial counsel; and (2) the applicability of the Louisiana Public Defender Board Performance Standards in determining whether the defendant and his former appointed post-conviction counsel, Mr. Lillian, failed to meet La. C.Cr.P. art. 930.8(A)'s diligence requirement. After the parties filed the requested briefing, on September 15, 2025, the district court orally denied the State's procedural objections. In written reasons, the district court provided a detailed account of the defendant's efforts to obtain documentation for his post-conviction claims, beginning in 2007 with a *pro se* Motion for Production of Records seeking his file from the district attorney's office, and continuing through his current representation by the Innocence Project. The district court listed the newly discovered impeachment material relied upon by the defendant, including undisclosed criminal records of the State's witnesses and investigation files. The district court found that the defendant "specifically and particularly asserts as a claim for relief the State's withholding of *Brady* material, which, *in ipsa re*, constitutes new evidence within the meaning of La. C.Cr.P. art. 930.8(A)(1)." Additionally, the district court found that none of the jurisdictional bars outlined in La. C.Cr.P. art. 930.4 applied to the 2023 APCR. The State then filed this writ application.

## **LAW AND DISCUSSION**

### Brady Claim

Under Louisiana law, an APCR shall not be considered “if it is filed more than two years after the judgment of conviction and sentence has become final.” La. C.Cr.P. art. 930.8(A). The defendant’s conviction and sentence became final in 2000. However, the defendant raised his *Brady* claim under the newly discovered facts exception in La. C.Cr.P. art. 930.8(A)(1), which allows a defendant to file an APCR more than two years after his conviction and sentence become final if “[t]he application alleges, and the petitioner proves, or the state admits, that the facts upon which the claim is predicated were not known to the petitioner or his prior attorneys.”

As explained in the APCR, at the first trial, the State called Rico Lee and Hollis Braxton, who testified that the defendant shot and killed Mr. Dinvaut during a robbery while they watched from the victim’s car. At the second trial, after Lee and Braxton recanted their prior sworn testimony, the State introduced transcripts of their prior sworn statements. *Alexis*, 738 So.2d at 63-64. In addition, the State called Allen Holland and Cleveland Carter, whose testimony established that Braxton, Lee, Washington, and the defendant were in the victim’s car that night. *Id.* at 65.

The defendant’s *Brady* claim relies on recently received, undisclosed documents containing impeachment material, which he began requesting in 2007 through a series of *pro se* public records requests for copies of the district attorney’s file in his case. After the Innocence Project began representing the defendant, the district court ordered the State to produce its complete files from the investigation and prosecution. The *Brady* claim also includes recently received,

undisclosed criminal records for Braxton, the sealed juvenile criminal records for Carter and Holland, including pending charges they faced during the investigation, and a report stating that Mr. Dinvaut was a victim in a crime involving Holland. Additionally, investigative reports revealed Holland's history of mental health issues and drug abuse.

The State argues that the district court erred in finding that the *Brady* claim was not procedurally barred as untimely because the defendant failed to meet the diligence requirement outlined in La. C.Cr.P. art. 930.8(A)(1),<sup>1</sup> which states in pertinent part:

[T]he petitioner shall prove that he exercised diligence in attempting to discover any post conviction claims that may exist. "Diligence" for the purposes of this Article is a subjective inquiry that shall take into account the circumstances of the petitioner. Those circumstances shall include but are not limited to the educational background of the petitioner, the petitioner's access to formally trained inmate counsel, the financial resources of the petitioner, the age of the petitioner, the mental abilities of the petitioner, or whether the interests of justice will be served by the consideration of new evidence.

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<sup>1</sup> The defendant filed his APCR on September 3, 2023, before the recent amendments to La. C.Cr.P. art. 930.8 went into effect on August 1, 2025. These amendments include an additional provision to the new facts exception with the enactment of La. C.Cr.P. art. 930.8(A)(2) which states:

(2)(a) Facts that were known to any attorney for the petitioner shall be presumed to have been known by the petitioner unless the petitioner rebuts this presumption by clear and convincing evidence. Facts that were contained in the record of the court proceedings concerning the conviction challenged in the application shall be deemed to have been known by the petitioner. The provisions of this Subparagraph are applicable if the petitioner proves both of the following:

- (i) That the petitioner exercised due diligence in attempting to discover any post conviction claims or facts upon which any claims may be based.
- (ii) That exceptional circumstances exist, the interest of justice will be served by consideration of the claim based upon the previously unknown facts, and the newly discovered facts in support of the claim are sufficiently compelling that manifest injustice will result if the claim is not considered.

(b) The petitioner shall have the burden of proving the provisions of this Subsubparagraph by clear and convincing evidence.

New facts discovered pursuant to this exception shall be submitted to the Court within two years of discovery.

Specifically, the State faults Mr. Lillian, appointed counsel for the 2003 post-conviction evidentiary hearing, for failing to obtain the allegedly withheld documents and raise a *Brady* claim as part of his representation of the defendant at that time.

Mr. Lillian's appointment as post-conviction counsel for the 2003 evidentiary hearing was limited to the *pro se* claims already raised in the 2001 APCR, namely, ineffective assistance of counsel and racial discrimination in selecting grand jury forepersons. The November 6, 2002 ruling granting the evidentiary hearing stated that Mr. Lillian was "appointed to represent petitioner at the hearing on claims herein stated above." Yet, in support of its argument, the State relies on a section of the Louisiana Administrative Code setting forth the "Performance Standards for Attorneys Representing Juveniles in Life Without Parole [JLWOP] Cases," Louisiana Admin. Code title 22, pt. XV, § 2141(A)(10), which provides:

Post-conviction counsel should seek to investigate and litigate all issues, whether or not previously presented, that are arguably meritorious under the standards applicable to high quality JLWOP representation, including challenges to any overly restrictive procedural rules and any good faith argument for the extension, modification or reversal of existing law. Counsel should undertake a high-quality, independent, exhaustive investigation and should not assume that investigation of issues by prior counsel has been complete or adequate.

Although the State concedes that this provision was promulgated in October 2017, well after Mr. Lillian's post-conviction appointment to represent the defendant at the 2003 evidentiary hearing, it contends this is persuasive authority that required Mr. Lillian to pursue additional post-conviction claims beyond the district court's November 6, 2002, order. We find that this standard does not apply to Mr. Lillian, who was not representing a juvenile client. Thus, we find no error by the district court in denying the State's procedural objections as to La. C.Cr.P. art. 930.8(A)(1)'s diligence requirement or on successiveness grounds under La. C.Cr.P. art. 930.4.

#### Ineffective Assistance of Counsel

The State argues that the district court erred by finding that the defendant's ineffective assistance of counsel claim was not repetitive. La. C.Cr.P. art. 930.4(E) provides that "[a] successive application shall be dismissed if it fails to raise a new or different claim."<sup>2</sup> Although the defendant raised a claim of ineffective assistance of counsel on appeal, this Court declined to address his claims, specifically finding that his claims concerning counsel's alleged conflict of interest and trial tactics were more appropriately addressed through an APCR. *Alexis*, 738 So.2d at 70-71. He later raised those same claims in his 2001 APCR, arguing that counsel rendered ineffective assistance by failing to object when the trial court advised Braxton and Lee of their *Miranda* rights in the presence of the jury and by failing to object to a

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<sup>2</sup> The current version of La. C.Cr.P. art. 930.4(E), effective date August 1, 2025, replaces the former repetitive application provision, La. C.Cr.P. art. 930.4(D).

violation of the sequestration order or move for a mistrial when the State's witnesses discussed the case while waiting to testify. He also repeated his claim of counsel's conflict of interest based on her prior representation of co-defendant Washington during the first trial.

In contrast, the 2023 APCR alleges that counsel rendered ineffective assistance by failing: (1) to investigate the State's case; (2) to investigate Braxton and Lee, despite receiving notice before their testimony that they intended to recant; and (3) to consult or call an expert on false confessions or police coercion. The defendant argued that his ineffectiveness claim was based on recently discovered facts revealing counsel's lack of pretrial investigation, including affidavits from potential witnesses whom counsel did not interview, Lee and Braxton's recently discovered mental health records, Braxton's criminal record, and a report from Dr. Hayley Cleary, an expert in false confessions and police interrogation of juvenile suspects. The defendant also submitted an affidavit from counsel's paralegal at the time of the defendant's trial, who stated that counsel failed to investigate or consult an expert.

The documents attached to the writ application show that the ineffective assistance of counsel claim raised in the 2023 APCR presents issues distinct from his prior post-conviction claim. Thus, the procedural default provision in La. C.Cr.P. art. 930.4(E) does not apply. Therefore, we find no error in the district court's determination that the ineffective assistance of counsel claim in the 2023 APCR was not successive. In addition, the ineffective assistance of counsel claim

raised in the 2023 APCR is not time-barred under La. C.Cr.P. art. 930.8(A)(1) because it is based on newly discovered facts.

### Prejudice to the State

The State argues that the death of the defendant's trial counsel in 2021 prejudices its ability to rebut the *Brady* and ineffective-assistance-of-counsel claims, citing La. C.Cr.P. art. 930.8(B),<sup>3</sup> the version of the prejudicial delay provision in effect when the defendant filed his 2023 APCR, which stated:

An application for post conviction relief which is timely filed, or which is allowed under an exception to the time limitation as set forth in Paragraph A of this Article, shall be dismissed upon a showing by the State of prejudice to its ability to respond to, negate, or rebut the allegations of the petition caused by events not under the control of the State which have transpired since the date of original conviction, if the Court finds, after a hearing limited to that issue, that the State's ability to respond to, negate, or rebut such allegations has been materially prejudiced thereby.

The State contends that rebutting the ineffective assistance of counsel claim requires an interview with Ms. Hammond-Jackson regarding her knowledge of witness accounts, the details of her investigation, and her trial tactics and reasoning. As support for its claim of prejudice, the State relied on *State v. Haynes*, No. 2024 KW

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<sup>3</sup> Following the enactment of the amendments to La. C.Cr.P. art. 930.8 on August 1, 2025, former La. C.Cr.P. art. 930.8(B) became La. C.Cr.P. art. 930.8(C), which now includes the additional requirement:

When the petitioner fails to timely seek a hearing that is allowed by law or fails to pursue claims for a period of two years after filing an application, the delay caused by inaction shall be presumed as prejudicial. The petitioner shall bear the burden of rebutting the presumption of prejudice. A final judgment dismissing an application based upon prejudice shall be a final adjudication of state post conviction claims in the application for purposes of exhaustion of state court remedies and federal habeas corpus proceedings.

The current version of La. C.Cr.P. art. 930.8(C) contains no express pronouncement with regard to the retroactive application of this provision.

1086, 2025 WL 80340 (La. App. 1 Cir. Jan. 13, 2025), *writ denied*, 25-133 (La. 10/14/25), 419 So.3d 796, in which the defendant claimed that his now-deceased trial counsel rendered ineffective assistance with respect to his guilty plea. In *Haynes*, the First Circuit, in an unpublished opinion, granted the State's writ application, finding that "the State established that its ability to respond to the defendant's application for post-conviction relief has been materially prejudiced by trial counsel's death." *Id.* In doing so, the First Circuit reversed the district court's decision to overrule the State's procedural objection under La. C.Cr.P. art. 930.8(B).

However, unlike the defendant in *Haynes*, the defendant's *Brady* and ineffective assistance of counsel claims rely on extensive documentation submitted in his APCR. For his *Brady* claim, these documents include the defense's August 31, 1994 Motion for Discovery, Bill of Particulars, and Motion for Production, and the prosecution's October 4, 1994 Answer to Motion for Discovery, Bill of Particulars, and Motion for Production from his first trial. In support of his *Brady* claim, the defendant submitted the April 5, 1995 transcript from the hearing on co-defendant Washington's Motion to Suppress, in which trial counsel, who represented the co-defendant at the time, requested an on-the-record determination of whether any exculpatory evidence existed. In response, the prosecutor stated that he was "not aware of any *Brady* material and that it would be covered through written discovery," adding, "I think the matter has been disposed of." For the second trial, the only *Brady* notice provided to trial counsel was on September 17, 1996, when the prosecution informed the defense that

Lee and Braxton had recanted their prior testimony by denying that they were present when the victim was murdered, but then withdrew their recantation. Furthermore, regarding both the *Brady* and ineffectiveness claims, trial counsel's prior testimony at the 2003 post-conviction evidentiary hearing is attached to the writ application. Additionally, trial counsel's paralegal executed an affidavit indicating that "favorable material evidence in the State's possession was never disclosed to defense counsel," and that trial counsel failed to hire an investigator or consult with experts. Thus, we find the State has not shown that dismissal is warranted under La. C.Cr.P. art. 930.8(B).

### Factual Innocence

The State argues that the district court erred in denying its procedural objection to the defendant's factual innocence claim on untimeliness grounds.

La. C.Cr.P. art. 926.2 provides in pertinent part:

A. A petitioner who has been convicted of an offense may seek post conviction relief on the grounds that he is factually innocent of the offense for which he was convicted. A petitioner's first claim of factual innocence pursuant to this Article that would otherwise be barred from review on the merits by the time limitation provided in Article 930.8 or the procedural objections provided in Article 930.4 shall not be barred if the claim is contained in an application for post conviction relief filed on or before December 31, 2022, and if the petitioner was convicted after a trial completed to verdict. This exception to Articles 930.4 and 930.8 shall apply only to the claim of factual innocence brought under this

Article and shall not apply to any other claims raised by the petitioner....

B.(1)(a) To assert a claim of factual innocence under this Article, a petitioner shall present new, reliable, and noncumulative evidence that would be legally admissible at trial and that was not known or discoverable at or prior to trial and that is either:

- (i) Scientific, forensic, physical, or nontestimonial documentary evidence.
- (ii) Testimonial evidence that is corroborated by evidence of the type described in Item (i) of this Subsubparagraph.

In this case, the defendant, who was convicted after a trial and filed his APCR with the district court on September 3, 2023, does not appear to qualify for La. C.Cr.P. art. 926.2(A)'s automatic exemption from the time limits in La. C.Cr.P. art. 930.8 or the repetitive application defaults in La. C.Cr.P. art. 930.4. However, a petitioner may still assert a claim of factual innocence under La. C.Cr.P. art. 926.2 after the December 31, 2022, deadline if he can prove that his claim is not otherwise barred from review by La. C.Cr.P. arts. 930.4 and 930.8. In his APCR, the defendant asserted that "the evidence that Mr. Alexis presents to satisfy La. C.Cr.P. art. 926.2(B)(1)(a) also satisfies the 'previously unknown facts' procedural requirements of La. C.Cr.P. arts. 930.4, 930.8(A)(1)." The defendant based his factual innocence claim on the following documents, which he claimed were recently discovered evidence: (1) Dr. Cleary's expert report relying on Braxton and Lee's medical records, (2) the layout of the Reserve Housing Project, and (3) Carter and Holland's court and law

enforcement records. Additionally, the defendant submitted Carter’s recantation, dated August 27, 2023, in which he denied seeing the defendant in the victim’s car on the night of the murder. Thus, as the district court found, the defendant’s reliance on the newly discovered facts exception in La. C.Cr.P. art. 930.8(A)(1) allowed him to raise a claim of factual innocence that would otherwise be barred as untimely. Accordingly, based on the showing made, we decline to reverse the district court’s ruling granting an evidentiary hearing on this claim.

#### Failure to Rule on All Claims

In its final claim, the State contends that the district court failed to provide a “specific ruling” on all of the State’s procedural objections to the defendant’s ineffective assistance of counsel, cumulative error, and factual innocence claims.

The State has the right to file any procedural objections it may have to a petitioner’s application for post-conviction relief. *See* La. C.Cr.P. art. 927. However, despite the State’s claim to the contrary, as this Court found in *State v. Kinsel*, 24-KH-90 (La. App. 5 Cir. 5/20/24) (JJ. Marcel, Wicker, Johnson), *writ denied*, 24-799 (La. 2/19/25), 400 So.3d 925, “there is no codal requirement for the district court to rule upon each of the State’s objections.” Thus, the State’s reliance on La. C.Cr.P. art. 927 is misplaced.

#### CONCLUSION

For the reasons stated above, based on the showing made, we deny this writ application.

Gretna, Louisiana, this 4th day of February, 2026.

**JJM**  
**SMC**  
**TSM**

SUSAN M. CHEHARDY

CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
STEPHEN J. WINDHORST  
JOHN J. MOLAISON, JR.  
SCOTT U. SCHLEGEL  
TIMOTHY S. MARCEL

JUDGES



CURTIS B. PURSELL

CLERK OF COURT

SUSAN S. BUCHHOLZ  
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### **NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN  
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THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY  
COUNSEL, AS LISTED BELOW:

**CURTIS B. PURSELL**  
CLERK OF COURT

**25-KH-601**

#### **E-NOTIFIED**

40th District Court (Clerk)

Honorable Nghana Lewis (DISTRICT JUDGE)

J. Bryant Clark, Jr. (Relator)

Elizabeth B. Murrill (Relator)

J. Taylor Gray (Relator)

Richard M. A. Davis (Respondent)

#### **MAILED**

Zachary T. Crawford (Respondent)

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